

**BOROUGH OF WIND GAP  
29 MECHANIC STREET  
WIND GAP, PA 18091  
863-7288  
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The Council meeting of the Borough of Wind Gap on Tuesday, April 17, 2012, was called to order at 7:30 p.m. by Council President, George Hinton, at which time he reminded those present that the meeting was being recorded. In attendance were Councilmen: Jon Faust, Kerry Gassler, Tony Curcio, Joe Weaver and Dave Hess. Also in attendance were Mayor James M. Shoemaker, Borough Solicitor Ronold Karasek, Borough Engineer Brian Pyshe and Borough Administrator Louise Firestone. Absent was Councilman John Maher.

**PUBLIC COMMENT**

No one appeared before Council at this time.

**APPROVAL OF MINUTES**

**On motion** by Tony Curcio to approve the minutes of the April 2, 2012 Council meeting and seconded by Kerry Gassler. Roll call vote taken. Motion carried unanimously.

**COMMITTEE REPORTS**

1. EMS . Kerry Gassler reported that the Ambulance Corps responded to 67 calls in January and 58 calls in February for a total of 125 calls for the year. An EMT is suing the Ambulance Corps and an unemployment hearing is scheduled for this week. The Ambulance Corps is currently shopping around for new insurance; they currently have Brown and Brown.
2. Fire Co. . Dave Hess reported that the Fire Company responded to 7 calls for the month of March, 2 structure fires, 1 HazMat incident, 1 stand-by, 1 gas leak, 1 accident and 1 downed wire.
3. Zoning . Tony Curcio reported that the Zoning Hearing Board did not receive any applications so no meeting was held in April.
4. Planning . George Hinton reported that no plans were submitted so a meeting will not be held in April and there has been no meetings this year.
5. Municipal Authority . John Maher was absent.
6. Streets . Dave Hess reported that John Zucal is off this week. The white Borough dump truck was taken to Palmerton because there is a problem raising the bed of the truck. Dave does not have an estimate for repairs yet. Dave will ask Randy to make a phone call to follow up with a determination of the problem and a cost for the repair. He reported that the street workers want to paint the cross walk stripping next week and asked Chief Armitage if the police department could assist with traffic control. Chief Armitage stated that Wednesday would be the best day because two officers will be on duty during the day shift. Ron Karasek informed Council that he has prepared the resolution to adopt the street opening fee and street opening application for the May meeting.

7. Police - Mayor Shoemaker reported that the Police Department responded to 141 calls for the month of March, 7 animal complaints, 5 motor vehicle accidents were investigated and they issued 33 traffic citations and 2 parking tickets. The Police investigated an armed robbery at the Arby's Restaurant. The Police Officers attended mandatory training at the Allentown Policy Academy. Jon Faust asked if Officer Flad was involved with the HazMat incident. Chief Armitage stated that Officer Flad was a back up for the incident, but was not directly involved and did not have to be decontaminated.

8. Park . Joe Weaver reported that the Park Board met on Tuesday, April 10 and they voted on purchasing two recycling bins.

**On motion** by Joe Weaver to purchase two recycling bins in the amount of \$600 for the collection of cans and bottles and seconded by Kerry Gassler. Dave Hess asked if the recycling would be collected by Waste Management. Joe stated that it would be picked up as part of their recycling collection. Council questioned the dollar amount of these bins so Joe will provide Council with pictures out of the catalog. Joe rescinded his motion until Council's next meeting.

Ron Karasek asked if a final determination has been made regarding the area to be designated for the establishment of the dog park. Joe stated that there was discussion with the Park Board regarding this issue and they believe that they can designate the entire parcel. Once a final decision has been made, then the fence could be installed based on what the Engineer says is not wetlands and appropriate for public use. George asked the Mayor if he has heard anything further regarding the fence. The Mayor replied that he is not sure how much fence would possibly be donated for this park. Ron suggested that he could prepare an ordinance to state that the area will be adopted by resolution. George stated that the ordinance should be held off until a specific area is determined. Pat Sutter asked where they came up with the idea, she has never heard of one and how big an area the park will be. The Mayor replied that there is a dog park in Nazareth. There are Wind Gap residents who own dogs and walk them in the street or on sidewalks where they make messes that have to be cleaned up. The Borough already owns the land and would hope to fence in approximately 200' X 200'. Joe added that the Park Board acknowledges that there is a demand for a place to walk dogs, so the suggestion came from the Park Board because they run the Park. Joe said that if she has specific concerns she is welcome to come to a Park Board meeting, they meet the second Tuesday of every month.

9. 911 . Tony Curcio had nothing to report.

10. Tipping Fees - Tony Curcio reported the Borough received a check today from Waste Management in the amount of \$33,029.82 for their first quarter 2012 payment. Tony referenced his tipping fee report as far as the percentage breakdown. Kerry questioned the total of the percentage not equating to 100%. Tony will review the numbers and make the necessary corrections.

11. Property Maintenance Code . Tony Curcio reported that John Maher sent Ron Karasek an e-mail on April 9, 2012 regarding changes to the ordinance and once that is done it will be presented again. Tony does not believe another committee will be necessary, but hopefully it will be ready for the May workshop meeting. The committee wants to include the use of a complaint form in the ordinance.

12. Building Finance Committee . George Hinton reported that he and John did meet, but would rather wait until John returns from vacation to share their ideas with Council.

13. GIS Update. John Maher was absent. Louise reported that the GIS Engineer was at the Borough Office to review the information required for data collection and give a demonstration of the progress to date.

## MAYOR'S REPORT

Mayor Shoemaker reported that the Slate Belt COG will meet on Wednesday, April 24, 2012 at 7:00 p.m. at the Blue Valley Drive COG office. Any interested Councilmember is invited to attend. There will be a Borough Park clean-up day on Saturday, April 21, 2012 beginning at 9:00 a.m. Any help will be greatly appreciated. The Mayor asked residents to clean up their curbs and sidewalks. A memorial stone has been ordered for Specialist Derek Holland, formerly of Wind Gap, who was killed in Afghanistan on June 3, 2008. The Mayor anticipates having the stone prior to Memorial Day so that it can be placed at the monument during a dedication ceremony. The date and time of this dedication will be announced. The Mayor is in the process of obtaining a doggy park on Third Street. He is in the process of picking a flag or banner to hang in the Borough. He currently has eight interested parties and once he gets an idea of the amount of banners a cost can be calculated. The electric pole at the corner by Turkey Hill on North Broadway has finally been replaced following an accident that occurred December 2011.

## NEW BUSINESS

1. Street Sweeping Quotes. Dave Hess provided Council with three quotes regarding street sweeping.

Hanson . At this time they do not have a vac broom

Muschlitz . Street Sweeper Truck with driver - \$152.00 per hour

R C Grounds Maintenance, Inc. . Power Sweeping with Broom Truck - \$90.00/hr

Vac Truck - \$95.00/hr total \$185.00/hr

**On motion** by Jon Faust to award the street sweeping bid to Muschlitz and seconded by Kerry Gassler. Council discussed how the residents could be better informed of the street sweeping schedule and the amount of money in the budget. They decided that No Parking signs could be posted and alternate between even and odd sides of the street. Louise replied that the budgeted amount is \$5,500 for 2012. Amended motion by Jon Faust to award Muschlitz at a cost of \$152.00 per hour with a not-to-exceed of \$7,000 and seconded by Joe Weaver. Roll call vote taken. Motion carried unanimously.

## OLD BUSINESS

1. Joel Scheer introduced himself as an attorney representing Donald and Cindy Grossbauer, property owners residing at 44 East Fifth Street, Wind Gap. Kerry asked if anyone did any research on this issue. Brian Pysher reported that he met with the Zoning Officer, Darlene Plank, went to the property, spoke to the property owners and asked the owner directly if he is running a tree trimming business out of his home. He replied that he is not running a business out of the house. Brian is not sure, from a zoning standpoint, if the burden to prove they are running a business falls on the Zoning Officer. Ron Karasek stated that Borough Council should not really get involved with zoning matters. Council should not tell the Zoning Officer what to do, that always causes an issue. In this case, she should make her own call or since the request has been made for assistance from the alternate Zoning Officer, their own decision. Once the decision has been made, and in this case, she has determined that they are not in violation of the Zoning Ordinance, then the neighbors have a right to file an appeal with the Zoning Hearing Board. The Zoning Hearing Board will hold a hearing to determine whether or not there has been a violation or whether or not that interpretation is correct. If the ZHB determines a violation has occurred, the other side has the opportunity to appeal, not before Borough Council, but before the Zoning Hearing Board. The only way that Borough Council would get involved is if they authorize Ron Karasek as the Borough Solicitor to sit with the Zoning Officer to review the matter. Mr. Scheer stated that his clients were frustrated because they did not know if any

decision was made on that particular issue to which they could file an appeal. They felt that there is already one home occupation at that location. He stated that he is the Assistant Solicitor in the City of Easton and when he wrote the letter to the Mayor initially he was hoping to get a determination. He did agree that if a hearing is held, the neighbors have no way of showing what goes on inside the house. They would be able to present evidence regarding the staging everyday to get the trucks loaded. His clients had hoped that they would not have to be the party to appeal because they feel that the neighbors are in violation of the ordinance. Ron suggested that the Zoning Officer put her determination in writing so that they have their opportunity to file their appeal to the ZHB. Brian added that it is the Borough's Zoning Officer's opinion that no Zoning Ordinance violation has occurred. Mr. Scheer asked that the investigation include observing how every morning starts with regard to the daily staging of the business at the residence. Josh Fafard, the property owner, stated that he leaves anywhere from 8:00 a.m. to 9:00 a.m. to go to his client's house for the purpose of cutting their trees and he does not have people come to his house and conduct business at his residence. He stated that he gets up in the morning, gets in his truck to go to work, comes home and he is done. He does not dump anything off at his house. Josh offered to give Mr. Scheer the name and number of his accountant. Ron stated that this is the purpose of the Zoning Hearing Board, to collect information from both sides and then make a decision.

Tom Wills asked when the zoning was changed from residential to commercial. When Detzi's went through when he was on Council, they had to have parking, handicap parking and now there is a business on Fifth Street and they are not required to have parking, how can that be? Brian Pysher responded that an R-8 District permits for a home occupation in addition to the primary residence and the Zoning Officer made a determination that a fitness trainer was a home occupation permitted by right. Tom stated that they were told that it would be one customer at a time and who is going to police that and years ago when a business came in residents were notified by mail, but not this time. Ron Karasek said that one neighbors contends that the other neighbor is running a business out of his home, but his response is that he just parks his work vehicle at his residence. Borough Council is legislative, it is the Zoning Board's responsibility to hear the matter and make a determination. Tom asked why when the first business applied for a permit they were not notified. Brian replied that a resident appeared in the Borough Office for a permit to have a home occupation and a permit for a sign. There is no provision in the ordinance that when a home occupation permit is issued, the adjoining property owners must be notified. Tom asked stated that when a property owner put in a beauty shop everyone in the block was notified. Ron further clarified by saying that unless an applicant was requesting a variance or special exception use from the Zoning Ordinance and a Zoning Hearing is held all the neighbors within 200' have to be notified of the hearing. Ron provided copies of the section of the ordinance defining home occupation to Mr. Scheer and Tom Wills.

2. Male Road Bridge Update. Brian Pysher reported that the street workers sealed the cracks on the bridge and within 20' to 30' within the bridge. George asked Dave to have the workers keep up on the sealing of the cracks. Brian did research the agreement with K-Mart Plaza and an agreement does exist. They are to maintain and make repairs to the bridge for twenty years. There was a bond put into place with a value of approximately \$38,000. The bond was to be in place for twenty years, but it does not appear that the bond is not in place anymore. He is not sure why it is not in place, but there is definitely an agreement between the developer and the Borough. The portion of the bridge that was widened by the developer in 1994 is the side that is cracking. Ron needs to review the agreement. If the bond is not in effect, it does not change their obligation to pay, but it would make it easier to collect. He explained that Brian will get the file together and meet with Ron.

3. South Park Maintenance. George Hinton informed Council that he was charged \$120 last year to pull the weeds and put mulch down. Dave Hess spoke to the street workers and of course they will do it if they are told to do it, but they are not sure what gets pulled and what stays. Kerry

stated that the Borough has two workers who can do the work. George asked that the Beautification ladies be contacted to supervise and ask them to schedule a day for the clean up.

3. **Park Restroom Opening/Cleaning Quote.** The Borough received a quote from Vanguard Cleaning at approximately \$50 for the weekend. They would not be opposed to unlocking the bathrooms as long as they would not be held to a specific time to have them opened. The Borough could hang signs informing the public when the doors would be unlocked. The street workers were approached and asked to provide a letter stating that they would waive their right to file any grievances regarding the Borough hiring an outside company to do the bathrooms on the weekends. Joe Weaver is currently unlocking the restrooms on the weekends. Other municipalities will be contacted to inquire how they handle their park restrooms and Council will wait to see if other quotes are received.

4. **Police Contract Update.** George Hinton asked for an update on the status of a follow-up meeting with the police officers. Jon Faust stated that he that there was correspondence between John Maher and Officer Redmond with possible dates for the next meeting. Joe Weaver did not have a copy of this letter so he was provided with one. A meeting will be scheduled once John Maher returns from vacation.

5. **Chief Armitage's Pay Raise.** Ron Karasek explained that the decision came down and became final within twenty days if no appeal was made. A motion should be made since that timeframe is up. The decision came up on March 29, 2012 so the raise would be effective as of April 18, 2012. George asked since the issue was brought to Borough Council's attention back in January does it have to be effective April 18. Ron explained that the law that was in question was that there has to be an adverse ruling by the Pennsylvania Labor Relations Board (PLRB) in order to have the Chief qualify for that raise and that adverse ruling was not entered until March 29 and does not become final until tomorrow. It is his opinion that it is in effect as of tomorrow, but Council has the option to go retroactive back to January 1 that is fine also. Chief Armitage stated that he was under the opinion that this issue was settled last year when it was discussed, but apparently it was not. Council was notified at the end of June that it wasn't, but he was not make aware until he received his first paycheck this past January. He immediately brought this to Council's attention and would have done so last year if he knew that the issue was not resolved. The ruling that the Borough just received would have been handed down last year. He asked Council to please consider making the fair decision by making his raise retroactive because this entire issue was through no fault of his.

**On motion** by Joe Weaver to make the Chief's raise effective April 28, 2012 at the necessary appropriate rate and seconded by Jon Faust. Roll call vote taken. In favor: D. Hess, G. Hinton, J. Weaver, J. Faust. Opposed: T. Curcio. Abstained: K. Gassler. Motion carried with a vote of 4-1-1.

6. **Blighted Ordinance.** Ron Karasek reported that the Zoning Officer sent him a note at the end of February regarding a property in the Borough that she would like Council to consider being subject to the Abandonment Blighted Property Act of 2008. The Act allows Borough Council to go to court and request that a conservator be appointed to administrate properties that are abandoned and blighted, but certain levels of requirements must be made. If Council would wish to consider this, the first order of business would be to have the property inspected by the Borough Engineer and the Zoning Officer to see if the property falls within the required parameters. Those parameters include: the property must not have been occupied for twelve months, the property must not be actively marketed for sale, the property is not subject to foreclosure, and the property has not been purchased in the last six months. Of the following conditions, three of these must apply to the property: it is a public nuisance, a need of substantial rehabilitation, unfit for human habitation, increased the risk of fire, building is subject to unauthorized entry, attractive nuisance to children, presence of vermin, or accumulated debris, uncut vegetation, physical deterioration, dilapidation, etc. In order to meet those

requirements, the first four must be met prior to an inspection. Council must determine whether they want to have the Zoning Officer explain her recommendation and then spend money on this issue or not. George stated that there have been several attempts to notify the property owner to cut grass, but the house still remains in disrepair. Certified mail has been sent to the owner, but not picked up, the electric meter is falling off the house and is hanging by a bungee cord. Ron stated that the Borough would have the power to bring about action for a public nuisance. George suggested that more information is gathered and this issue be discussed at the May workshop meeting.

7. Dave Hess asked for an update on the A Street paving project. Brian Pysher replied that the Borough is waiting for the Municipal Authority. He added that the bid specs for the Borough portion of the project is almost complete. At the last Authority meeting, their engineer stated that if they authorize him to do the specs he would have them completed for the next meeting. George asked that Brian have an update for the May meeting. Jon asked if Alex Cortezzo decided on concrete or blacktop. George to contact Mr. Cortezzo tomorrow.

**On motion** by Tony Curcio to adjourn the meeting of April 17, 2012. Council agreed unanimously.

The meeting of April 17, 2012 adjourned at 8:58 p.m.

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Louise Firestone, Borough Administrator